



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

2890 WOODBRIDGE AVENUE

EDISON, NEW JERSEY 08837

NOV - 8 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

File No. 2007004A

Mr. Joseph A. Cimilluca
Able Agency
453 West Milton Avenue
Rahway, New Jersey 07065

Re: **Followup to Inspection of October 13, 2006**
Able Agency

Dear Mr. Cimilluca:

EPA Region 2 inspectors conducted an inspection at the Able Agency office in Rahway, New Jersey on October 13, 2006 to assess compliance with the Disclosure Rule for Lead-based Paint.¹ The inspectors reviewed files for the following New Jersey properties: 40 North High Street, Colonia; 2 Webb Drive, Fords; and, 714 North Avenue West, Westfield. These residential properties were constructed prior to 1978, and, therefore, meet the definition of target housing under the Disclosure Rule. Upon review of the files, the following discrepancies in completing the lead-based paint disclosure form were identified in one or more of the transactions identified above:

Purchaser's Acknowledgment:

- The purchaser did not indicate whether or not he/she received the 10-day opportunity to conduct a risk assessment or inspection, or that he/she waived the opportunity, as required by 40 CFR § 745.113(a)(5). (See contracts for 40 North High Street and 2 Webb Drive.)
Corrective Action - The purchaser must check one of the boxes on the disclosure form to indicate whether he/she was given a 10-day period to conduct a risk assessment or waived the opportunity to conduct a risk assessment, and initial the answer to confirm its accuracy.

¹ The Real Estate Notification and Disclosure Rule for Lead-based Paint (Disclosure Rule), which is codified at 40 CFR Part 745, Subpart F, requires the agent, for the purpose of selling housing which was built before 1978, or "target housing", to ensure compliance with the requirements of the Disclosure Rule prior to the sale of said housing, 40 CFR § 745.115. Each violation of the Disclosure Rule is a prohibited act under TSCA § 409, which may result in civil penalties under TSCA § 16 of up to \$11,000.00 per violation.

Certification of Accuracy:

- The seller, the purchaser, and/or their agents failed to date his/her signature certifying to the accuracy of his/her statements, as required by 40 CFR § 745.113(a)(7). (See contracts for 40 North High Street and 2 Webb Drive.)
Corrective Action - The seller, purchaser, and agent must sign and date the disclosure form.
- The seller's signature was dated after the purchaser's signature. Therefore, the seller failed to disclose to the purchaser and attach to the sales contract specific disclosure and warning language before the purchaser was obligated under contract to purchase target housing, as required by 40 CFR § 745.107. (See contracts for 40 North High Street and 2 Webb Drive.)
Corrective Action - The seller must complete and sign the disclosure form before giving it to the purchaser so that the purchaser knows he/she is being given disclosure information that is certified as accurate.

As part of correcting these discrepancies, you are hereby directed to ensure compliance with the Disclosure Rule in all future transactions for the sale of target housing. Enclosed are sample copies of completed disclosure forms along with an instruction sheet for your information. If you have any questions or concerns regarding disclosure, please contact Lisa Kim at (732) 906-6993.

Sincerely,



Kenneth S. Stoller, P.E., QEP, DEE
Chief
Pesticides and Toxic Substances Branch

Enclosure